**ATTACHMENT A**

# ATTACHMENTS TO COMMENT LETTER AL063

# PALMDALE

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August 31, 2004



Mr. Joseph E. Petrillo
Chairman
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, California 95814

Re: Comments on Draft Program EIR/EIS For Proposed High-Speed Train Project – SCH 2001042045

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Dear Mr. Petrillo:

The City of Palmdale appreciates the opportunity to assist the California High Speed Rail Authority in its consideration of this important project. The decisions made in regard to a high-speed rail system for the State of California will affect the future of our state's transportation system as well as the state's economic viability and growth patterns for many generations.

One of the most critical decisions that will be made is the choice of routes. The Draft Program Environmental Impact Report/Environmental Impact Statement for the High Speed Rail Project ("EIR") will be used to select between two alternative routes connecting Bakersfield and Los Angeles: one following the I-5 Freeway along the Grapevine and the other traveling through the Antelope Valley with a station in Palmdale. It is vitally important that the Authority's choice of routes meets the needs of Southern California and the state by connecting the places where most people live with the places where most people work, by promoting growth in a manner consistent with the state's land use and planning policies, by relieving traffic in congested areas, and by providing cleaner air and more environmentally friendly ways to travel. The City is confident that upon a full and fair consideration of these needs, the Authority will select the Antelope Valley route as the best choice for California.

## Comments on the EIR

The City has participated in every phase of the Authority's proceedings since 1995 and has developed and provided technical and other important information that will assist the Authority in making this critical decision. This information has included the testimony of elected officials, technical experts, and researchers that was presented at the Authority's public meetings held on April 13 and June 23, 2004 in Los Angeles. In addition, the City has developed written technical reports and comments, which together with this letter, are formally submitted for the record in accordance with the public notices establishing the public review period for the EIR.

The following studies, reports and other documents, together with this letter, are presented in support of the City's comments on the EIR and the proposed High Speed Train project:

- Technical Peer Review of the Draft Program EIR/EIS for the Proposed California High-Speed Train System prepared by Michael Brandman & Associates

- Final Report - A Comparative Analysis of Tunnel Construction times, Costs, and Risks Associated with the Choice of High Speed Rail Tunneling Alignment between Los Angeles and Bakersfield prepared by Geodata SpA of Turin, Italy, and Transmetrics of San Jose, California

- Sprawl or Smart Growth - Analysis of High Speed Rail alignments and Smart Growth Prepared For the California High-Speed Rail Authority and the City of Palmdale, California by Dr. Robert H. Freilich

- Legal review of the EIR prepared by Chris Bisgaard and Daniel V. Hyde of the law firm, Lewis, Brisbois, Bisgaard & Smith LLP, and

- Compilation of the City's presentations and information submitted to the Authority made prior to the issuance of the EIR prepared by Robert Schaevitz

**The Antelope Valley Route is the Best Choice For California**

The California High Speed Rail Act of 1996 provided that the High Speed Rail project should help generate jobs and economic growth, and be integrated with existing transportation networks (Public Utilities Code §185,010(i) and §180,030). The final business plan for the high speed rail project specified that the project should be "economically feasible, publicly popular, and fiscally prudent . . . support economic growth . . . and do so in an environmentally and fiscally responsible way." The statutory mandates also stated that the line should connect underserved population centers and provide for intermodal connectivity.

The Antelope Valley route meets these statutory mandates and represents the best choice for California because it is:

- Cheaper, faster and easier to build
- Better for the environment
- Better for taxpayers generating higher revenues and lower risk of cost overruns
- Relieves congestion on the I-5 and SR-14 freeways
- Links growing population and employment centers
- Protects valuable farmland by promoting growth in accordance with Smart Growth principles
- Connects to the next major Southland airport

The I-5 route, in contrast to the Antelope Valley route, would not generate increased ridership or the associated revenues since it runs through an unpopulated area that doesn't help riders get to where they need to go. The Antelope Valley is estimated to have a population of 750,000 residents and will have 260,000 more jobs by the time the rail line is built, and will then be one of the largest communities in the state. The added ridership on the Antelope Valley route will add up to a projected $900 million more in net benefits than the I-5 route over the first 33 years of operation. The I-5 route would not connect the state's existing infrastructure, so it would not alleviate traffic on the highways or at

Bakersfield, Delano, Visalia, Fresno, Madera, Merced and many others, including Tejon Ranch and Congressmen Bill Thomas, Buck McKeon, and Calvin Dooley. During the hearings on the EIR, no one spoke in favor of the I-5 route.

The City of Palmdale looks forward to the Authority's responses to the City's comments and to an early determination in favor of the Antelope Valley route. Upon the selection of the Antelope Valley route, the City of Palmdale is dedicated to assisting the Authority in implementing this project.

Sincerely,

James C. Ledford, Jr.
Mayor

C: City Council
Robert W. Toone Jr., City Manager
Stephen H. Williams, Assistant City Manager
John Brooks, Sr. Analyst

airports, which means it would not take cars off the road to reduce air pollution. The City proposes to build the Palmdale station at the Palmdale Regional Airport, which is owned by the City of Los Angeles, and is expected to become a major Southland airport in the future and relieve congestion at LAX and other regional airports.

Although both routes require tunneling, the I-5 route involves dangerous conditions, which could significantly increase the chance of cost overruns and completion time. In addition, the I-5 tunnels would run parallel to earthquake fault lines for many miles, which represent much greater earthquake risk than the Antelope Valley route. The tunneling for the I-5 route will take approximately 3 1/2 years longer to build and will be significantly more expensive both to build and to operate. The I-5 route will also promote growth in the Central Valley where it will have an enormous adverse impact resulting in the loss of high value agricultural lands.

By connecting population and business centers, more people will use high-speed rail and more cars will be taken off the already congested highway system. The Antelope Valley route will therefore help alleviate traffic congestion on both the I-5 and SR 14 freeways - two of the most congested freeways in the state and also improve air quality in the LA basin.

The environmental analysis in the EIR supports the conclusion that the Antelope Valley route has less environmental impacts than the I-5 route and that the Antelope Valley route would be the environmentally superior alternative for the project. In general, while there are many gaps in the information supplied in support of the EIR, as detailed in the attached comments, there is substantial evidence contained in the EIR and in the attached reports to support the Authority's decision to eliminate the I-5 route from further review in favor of the Antelope Valley route.

The Antelope Valley route has won unanimous support in Southern California and in many other communities throughout the state. The City has previously presented a large array of resolutions of public agencies in support of the Antelope Valley route. The supporting agencies include the County of Los Angeles, the City of Los Angeles, Los Angeles World Airports, Southern California Association of Governments, Los Angeles County Metropolitan Transportation Authority, the Counties of Kern, Kings, Tulare, and Fresno, and the Cities of Los Angeles, Lancaster, Palmdale,

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August 27, 2004

FILE NO.
26532-2

**VIA FIRST CLASS MAIL**

Mr. Joseph E. Petrillo
Chairman
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, California 95814

Re: Comments on Draft Program EIR/EIS For
Proposed High-Speed Rail Project - SCH 2001042045

Dear Mr. Petrillo:

This letter supplements the comments and other information submitted by the City of Palmdale (the "City") in connection with the Draft Program Environmental Impact Report/Environmental Impact Statement (the "EIR") for the proposed California High Speed Rail Project (the "Project"). The City requested us to review the adequacy of the EIR and the legal sufficiency of the proceedings of the California High Speed Rail Authority (the "Authority") in connection with the adoption of the Project. Our findings and conclusions are set forth below.

The EIR is a combined document that must comply with the requirements of both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). For clarity and ease of reference, we have addressed the EIR's compliance with CEQA since that is generally the more stringent enactment. However, many of the deficiencies found in the EIR under CEQA are also violations of NEPA and our comments should be understood to address both acts.

## General Requirements for EIR Adequacy

Generally, EIRs must be adequate under CEQA. (*Laurel Heights Improvement Assn. v. Regents of the Univ. of Calif.* (1988) 47 Cal.3d 376, 392.) To be legally adequate, an EIR must

contain all of the required contents set forth in CEQA and the Guidelines, and must comply with statutory and Guideline requirements that apply to the required contents. EIRs must contain 1) an index or table of contents [CEQA §21061; Guidelines §15122], 2) a summary of its contents [CEQA §21061; Guidelines §15123], 3) a list of organizations and persons consulted in the preparation [Guidelines §15129], and 4) a list of persons or organizations involved in the preparation [Guidelines §15129]. An EIR must contain a project description, which must comply with various technical requirements [Guidelines §15124], and must a) constitute an accurate description that does not minimize project impacts, b) include discussion of reasonably foreseeable activities, and c) be fixed and consistent throughout the document.

An EIR must describe the project's environmental setting from both a local and a regional perspective to establish the baseline for analyzing the project's environmental effects and alternatives. (Guidelines §15125.) An EIR must discuss any inconsistencies between the proposed project and any applicable general or regional plans. (Guidelines §15125(b).)

Substantively, an EIR must adequately discuss and analyze the project's significant environmental impacts. (CEQA §21100(b)(1); Guidelines §15126(a).) The EIR must discuss both direct and indirect effects of the project, analyze foreseeable, but not speculative, project impacts, and analyze economic impacts as they may relate to environmental impacts. The scope of analysis must be consistent with the project description, and the EIR must compare the proposed project with existing conditions. CEQA imposes special requirements for the analysis of certain environmental impacts, such as archaeological and historic resources, hazardous waste sites, energy, air quality, and water supply.

The level of detail of an EIR's analysis of environmental impacts should correlate with the type of action or project being evaluated. The EIR must be prepared with a sufficient degree of analysis to provide decision-makers with information needed to make an informed decision concerning the project's environmental consequences. The EIR must set forth an explanation of conclusions in its environmental impact analysis, must describe the project's unavoidable significant impacts, contain a statement of the project's environmental impacts found to be insignificant and indicate reasons for determining them to be insignificant. (Guidelines §15128.) The EIR must discuss and analyze the project's significant cumulative impacts (Guidelines §15130), and analyze a project's growth-inducing impacts. (CEQA §21100(b)(5); Guidelines §15126(f).)

An EIR must describe mitigation measures for each potentially significant impact that it identifies. (CEQA §21100(b)(3); Guidelines §15126(b)(3).) Specific mitigation measures are required for impacts on archaeological and energy consumption. An EIR must describe a reasonable range of project alternatives sufficient to permit informed decision-making and public participation focusing on alternatives that eliminate or reduce significant environmental impacts. (CEQA §21100(b)(4); Guidelines §15126(d). The EIR must analyze a "no-project" alternative.

(*Id.*) Alternatives may be on-site alternatives, alternatives to the project's location, or both. To be legally adequate, an EIR's analysis of project alternatives must a) sufficiently describe each alternative to enable the decision-maker to compare it with the proposed project, analyze the environmental effects of each alternative, identify the environmentally-superior alternative, and describe the basis for selection of the alternative discussed in the EIR and state the reasons for excluding infeasible alternatives. In analyzing project alternatives, the lead agency must evaluate and respond to alternatives that are proposed during the EIR's comment period.

**Failure to Promote Public and Agency Review**

The EIR is a three-volume document released on a CD ROM disk. It is not available as a hard copy, except at a few listed libraries around the state. It costs over $1500 to have the entire document plus its appendices printed out and collated into three-ring binders. The disk is not readable without acquiring Acrobat 6.0, which is also the case with the version of the EIR that is available on the Authority's website on the Internet. By making the EIR available only on computer disk and over the Internet, without providing complete sets for libraries and others requesting hard copies of the EIR and its supporting documents, the Authority has failed to facilitate meaningful review of the EIR.

The EIR is supported by a number of Technical Studies. These studies are not incorporated by reference into the EIR, and are described merely as "references" and "sources." A CD ROM disk containing some, but not all, of the technical studies was delivered to us on February 14, 2004. The full disk was not delivered until the following Thursday, February 19, 2004. The public review period officially commenced on February 13, 2004 and was extended to conclude on August 31, 2004. Numerous studies, reports, and other documents containing necessary factual information needed to verify and/or understand the analysis in the EIR were not supplied with or incorporated into the EIR. On behalf of the City, we have made several timely requests for this information, but the Authority has not readily produced this information. Given the requirement to respond with all comments within a defined public review period, the extensiveness of the EIR, and the volume of missing documentation, the Authority has not fulfilled its obligation to promote public and agency review as required by CEQA.

**Failure to Consult with Agencies with Transportation Facilities**

Public Resources Code §21092.4 provides, in pertinent part, as follows:

> (a) For a project of statewide, regional, or areawide significance, the lead agency shall consult with transportation planning agencies and public agencies which have transportation facilities within their jurisdictions which could be affected by the project. Consultation shall be conducted in the same manner as

> for responsible agencies pursuant to this division, and shall be for the purpose of the lead agency obtaining information concerning the project's effect on major local arterials, public transit, freeways, highways, and rail transit service within the jurisdiction of a transportation planning agency or a public agency which is consulted by the lead agency. A transportation planning agency or public agency which provides information to the lead agency shall be notified of, and provided with copies of, environmental documents pertaining to the project.
>
> (b) As used in this section "transportation facilities" includes major local arterials and public transit within five miles of the project site and freeways, highways, and rail transit service within 10 miles of the project site.

In the EIR, the Authority identifies the agencies consulted and the topics discussed with each agency on a list or chart labeled as "Public Outreach." The description of the topics on the "Public Outreach" list, however, does not indicate that the Authority treated each of the listed agencies with transportation facilities as "responsible agencies' as required by CEQA. The extent and nature of the consultation with each such agency is not revealed in the EIR. The City has advised us that even though the Authority met with City staff, the Authority has never sought information from the City concerning the Project's effect on major local arterials, public transit, freeways, highways, and rail transit service within the City's jurisdiction. On March 4, 2004, we forwarded a Public Records Act Request to the Authority requesting the service list for the Notice of Preparation and copies of all consultation-related documents received from several of the other jurisdictions that should have been consulted under section 21092.4 (a). No evidence of the appropriate level of consultation was produced by the Authority.

**Failure to Provide an Adequate Description of the Project**

A Project Description is an express requirement of CEQA. There is no section of the EIR formally setting forth the description of the Project. HST is portrayed merely as an alternative. There is no detailed discussion of the physical components, characteristics, or attributes of the proposed HST system facilities. The proposed tunnels, as well as at-grade, and above-grade facilities are not discussed. There is no specific discussion of the location of each type of facility. No topographic maps are provided, as recommended.

Reasonably foreseeable future project activities, including line extensions, additional stations (e.g., I-5 at Tejon), linkage with other transportation projects, are not discussed. In general, previous screening and corridor studies were used to arrive at the HST Project. While there is a confusing table that was apparently intended to summarize the stations and alignments eliminated from further consideration at earlier stages of project development, there is no real

narrative discussion of the elimination process and little in the way of objective criteria, environmental or otherwise, for the Authority's previous decision-making.

**Failure to Adequately Address Significant Impacts**

In Chapter 3, the EIR addresses and compares the significant environmental impacts of each of the project alternatives in reference to 16 different areas of environmental impact. These include: Traffic and Circulation; Travel Conditions; Air Quality; Noise and Vibration; Energy; Electromagnetic Fields and Interference; Land Use; Agricultural lands; Aesthetics and Visual Resources; Public Utilities; Hazardous Materials and Waste; Cultural and Paleontological Resources; Geology and Soils; Hydrology and Water Resources; Biological Resources and Wetlands; and Section 4(f) and 6(f) [Park lands]. These sections each separately address regulatory requirements, environmental setting or "affected environment," and environmental impacts or "consequences." In many instances, as more specifically discussed by MBA, the City's environmental consultant, the environmental setting is not described in sufficient detail to determine the specific impacts that the Project might have on the environment. (See Level of Detail, *infra*.)

There is little if any distinction between the discussion of local, regional, and regulatory project settings in the EIR. The specific resource sections also have a "Comparison of Alternatives by Region." This subsection is used to describe alignment or station alternatives that have not yet been eliminated from review, including the I-5 vs. AV alignment selection. Several subsections, however, do not compare alternatives by region. These include Air Quality and Electomagnetic Fields. Following the comparison are two subsections, one on mitigation "strategies," and another describing the analysis that is still required. The final section addresses "Cumulative Impacts" and revisits each of the previous resource or impact categories. This subsection appears almost as an afterthought, as if someone had realized that addressing cumulative impacts was required after the impact sections had been drafted. Cumulative impacts are generally appropriately addressed with the discussion of each resource area so that a person interested in a project's impacts on, for example, air quality, can determine if the project will have either significant direct impacts or cumulatively significant impacts by referring to the Air Quality section. The EIR requires a reader to look at both the Air Quality section and the Cumulative Impacts section to ascertain the Project's air quality impacts.

The resource sections of Chapter 3 of the EIR do not uniformly identify objective thresholds of significance. Guideline Section 15064(b) requires significance determinations to be carefully made based on "scientific and factual data." The EIR's failure to do this contributes to the annoyingly general and arbitrary tone of the discussion in the EIR. It also renders the comparison of route alignments vague and uncertain. It is frequently difficult to tell if, for example, one alignment will have more impacts on wildlife, how many more impacts will the alignment have, and how significant quantitatively those differences are.

The preponderance of the discussion in the EIR relates to the comparison of significant impacts between the no-project, modal, and HST alternatives. Much less discussion is devoted to the alignment options. Specifically, the analysis of significant environmental impacts is not sufficiently detailed to allow comparison between the two Bakersfield to Sylmar routes. There is a brief comparison of conclusions in the Noise section. In the Aesthetics and Visual Resources section there is a table (Table 3.9-1) that allows some comparison of visual impacts between the two alignments, and there is a discussion on page 3.9-17 in this regard. There is a brief comparison of the impacts on Public Utilities on page 3.10-9 concluding that the I-5 would have the most conflicts. The potential for impacts on archeological sites on the AV alignment is high, while the potential for the I-5 is low. On the other hand, potential impacts on historic structures is medium to high for the I-5 and low to medium for the AV. (See p. 3.12-22.)

Certain obvious impacts are not addressed at all. The Traffic Report for the Bakersfield to Los Angeles segment on the Technical Studies disk addresses the traffic impacts of the No Project, Modal, and HST Alternatives only. There is no analysis or comparison of the traffic impacts between the I-5 and AV routes. Also, Section 6.4.1 of the Program EIR (the alignment comparison for the I-5 and AV routes) does not compare traffic impacts. It would seem that, except for avoided air traffic, HST ridership reduces north-south vehicle traffic on the I-5, regardless of which route is selected. If the AV route were selected, HST would achieve all of the I-5 traffic reductions AND reduce traffic on the 14 freeway. Selecting the I-5 route would not reduce any traffic on the 14 freeway. The AV route should be environmentally superior in this regard, both in terms of traffic and air impacts, and should have been identified as such.

The EIR focuses on impacts derived from pre-draft consultation or scoping, and is clearly geared toward highlighting differences among the no-project, modal, and HST alternatives. The identification of project impacts that may result from the project as applicable between the alignment options is not as detailed or as comprehensive. The EIR fails to address the existence of significant impacts relating to the I-5 alignments, e.g., indirect growth impacts do not appear to be addressed in any quantitative way.

Concerning economics, the discussion of ridership and the assertion that there will be greater ridership system-wide based on the shorter duration of the I-5 alternative is not well documented in the EIR. Cost should play a more significant role in determining ridership than time.

Although one of the goals of the project is to develop a rail service that is fully integrated with the state's existing transportation system, the EIR fails to adequately address the advantages of a potential link to the Palmdale Airport and other transportation systems that are planned to connect with the Palmdale Airport.

Specific sections of the EIR deal with the required discussion of archaeological and historic resources, hazardous waste sites, energy, air quality, and water supply, as required. These sections do not appear specific enough to allow meaningful comparison of alignment alternatives.

**Insufficient Level of Detail**

The level of detail of an EIR's analysis of environmental impacts is dependant on the decision that is being made. The EIR must be detailed enough to support an informed decision concerning the project's environmental impacts. It appears that for the overall decision on the project vs. the no-project and modal project, there is sufficient information to make such a decision. Concerning the choice of alignment options, there is not sufficient information to decide between the I-5 and AV alignments. The EIR reveals that many alignment options were considered and rejected as a result of studies conducted without environmental review.

To withstand legal challenge, there must be substantial evidence in the record to support the findings made by the agency in support of its decision. If there is no such evidence, the agency's action may be challenged by writ of mandate as an abuse of discretion. Here, there is not sufficient information to support a decision that the I-5 alignment is environmentally superior than the AV route. With the submission of the City's environmental information into the record, there is, however, sufficient substantial evidence that would support a decision excluding the I-5 alignment from further consideration.

**Failure to Adequately Address Cumulative Impacts**

The Cumulative Impacts section generally attempts to compare the impacts of the three Project Alternatives on an overall basis, but does not represent a legally sufficient cumulative impacts analysis. The growth-inducing aspects of the I-5 Alignment and other elements of the project would be cumulatively significant in the Central Valley because of the large, clearly significant impact that would occur as prime farmland is converted to residential uses, but this cumulative impact is not addressed. The section on Agricultural lands in the Section 3.17, page 3.17-5 compares the total amount of farmland subject to conversion by either the modal or HST alternatives, but does not address the amount of farmland that would be converted through residential conversions and compare that cumulatively significant loss among alternatives.

**Inadequate Discussion of Mitigation Measures**

An EIR must identify and describe measures needed to reduce or avoid each potentially significant environment effect of the project. The Program EIR/EIS merely identifies a few "mitigation strategies" and does not propose any specific mitigation measures. The various impact sections of the EIR suggest that many of the potentially significant impacts would be

mitigated, but there is no discussion comparing the impacts after mitigation of the AV vs. I-5 alignments. There is therefore no specific factual basis for the selection of the I-5 or AV routes other than the information supplied by the City.

**Failure to Address A Reasonable Range of Alternatives**

Section 2 of the Draft EIR/EIS describes three alternatives, a no-project alternative (a legal requirement), a modal alternative, which is an alternative constructed to represent a hypothetical expansion of the existing highway and air travel system that would accommodate 2020 intercity travel demand in the area that would be served by the HST, and the HST Alternative. The HST alternative has several optional routes (e.g., AV vs. I-5) and station locations, but most of the initial options were eliminated during scoping (e.g., Altamont Pass), as was Maglev technology, without environmental analysis. There do not appear to be any smaller or larger or phased HST projects discussed.

The alternatives analysis is addressed to the potential decision as to whether to go forward with the project along with its specific alignment options, and does not support a choice among alignment options. The alternatives analysis is not adequate even for the single purpose of going forward with the project. The HST alternative is presented as a one-size, take-it-or-leave-it project. What is missing is the analysis of a bigger project, a middle-sized project, and a smaller project, or the like. Even if the size of the project is determined by previous screening studies, the comparative analysis of bigger and smaller projects nonetheless yields important analytic information, i.e., that if the project is smaller, the project benefits may no longer outweigh the environmental impacts and vice versa. The alternatives analysis in the EIR is a mere rhetorical exercise. The Authority is under a legal mandate to develop an HST project and has no power to adopt the "modal" alternative. The no-project alternative analysis is legally required.

**Failure to Disclose Appropriate Criteria For Evaluation of Alternative Routes**

Chapter 6 is a long, difficult table that sets forth a High Speed Rail Alignment Options Comparison. There is no analytical foundation provided for the various elements of the options compared. The information on the chart or table is very general and seems to compare features randomly as opposed to systematically or qualitatively. This section suffers from a failure to set out appropriate thresholds of significance and potential for mitigation that could be quantitatively applied to each of the impacts compared.

**Failure to Adequately Describe the Input from Responsible and Trustee Agencies**

There is no list of persons or agencies consulted per se. The "Outreach" section is in the form of a table that includes what appears to be any type of presentation or contact made by the Authority's staff with anyone during preparation of the draft. The table describes the type of contact under a column labeled "Topic." A 2-page summary of the comments received from agencies in general is provided in section 8, but the draft does not describe or reveal the specific comments of or the level of involvement of any specific responsible or trustee agency for the project. Section 8 is entitled Public and Agency Involvement. Section 8 briefly describes the Authority's actions in conducting informational programs for the public and engaging in legally required pre-draft consultation, including its scoping meetings and meetings with federal cooperating agencies, such as EPA, Fish and Wildlife, the Army Corps of Engineers, the FRA, FTA, FAA, and FHA. The actual comments and input from these agencies is not set forth nor does the EIR describe the Authority's responses to these comments. Section 9 is another lengthy chart attempting to list each organization contacted and the purpose of the contact. This chart lumps together agencies for whom the Authority made informational presentations with agencies that the Agency had a duty to consult in the manner of responsible and trustee agencies and it is not possible to clearly discern whether the Authority in fact consulted with local agencies with transportation facilities that could be affected by HST.

**Inadequate Supporting Technical Appendices**

Appendices to EIRs generally include the geotechnical studies for the proposed project site, the traffic studies relied upon, any air quality modeling, or noise studies. The Appendices to the EIR do not contain these technical reports. They set forth slightly more detailed summaries of information provided in the body of the EIR. For example, the first few appendices are detailed descriptions--mostly summaries and lists--of highway and aviation projects used to develop the no project and modal alternatives. Appendix 2-H is a long chart or table comparing each of the various alignment and station options that were developed during the screening evaluation. The chart is confusing because it refers to each alignment or station developed during the screening evaluation, many of which were eliminated from future consideration and were not addressed in the EIR analysis.

Appendix 2.0 provides a Screening Evaluation of the Bakersfield to Los Angeles Alignment option. This section appears to be an excerpt from a larger report and describes in more detail the criteria/methodologies and parameters used for the evaluation of the AV vs. I-5 alignment options. Other appendices are summaries of traffic, noise, wetlands and other areas of environmental impact, but these do not include the basic source information or analysis. To the extent that the Authority relied on its prior screening and other reports to reach conclusions in the EIR, such documents should have been made appendices and circulated with the EIR.

The Authority has made available a disk with various Technical Reports. Some of the reports state that the technical reports are intended to be part of the Administrative Record. The Technical Reports are grouped by each of the six segments of the overall alignment plus one group with "Statewide" reports. The Bakersfield to Los Angeles Group contains 14 separate technical evaluations, including: Sections 4 (F) and 6 (F) [park and recreational lands]; Biological Resources; Hazardous Materials/Wastes; Noise and Vibration; Public Utilities; Appendices (traffic); Traffic Figures; Aesthetics and Visual Quality; Cultural Resources; Geology and Soils; Hydrology and Water Quality; Land Use Planning, etc., and Environmental Justice; Paleontological Resources; and Traffic, Transit, Circulation and Parking. The "Statewide" Group includes: Agricultural Lands and Agricultural Figures; Air Quality; Alignment Configuration and Cross Sections; Final Cost Report - Capital and Operations and Maintenance Costs; Statewide Energy; Engineering Criteria; Land Use (affected by right of way acquisitions); Operations; and Tunneling Issues. Each of these evaluations are highly summarized discussions typically citing to other references for the potential for impacts and then summarizing the results into a large table or figure without any type of field verification.

**Impacts Found Insignificant.**

The EIR does not address insignificant impacts or discuss why such impacts were determined to be insignificant.

**Failure to Adequately Address Inconsistencies with General or Regional Plans**

The EIR discusses compatibility with existing land uses and planning in section 3.7, but this section does not directly discuss inconsistencies with any individual general or regional plans. There is a statement at the beginning of the analysis that the EIR's discussion of consistency (such as it is) does not imply that the Authority, as a state agency, would be subject to such plans. Apparently, the Authority believes that it is not. While this might be the case, it does not, and should not, relieve the Authority from discussing consistency as required by CEQA. The section refers to the list of plans consulted in the Chapter 12 list of sources, but there is no discussion of the consistency or inconsistency of any individual plan or any statement that the plans listed in the sources chapter were, in fact, all of the applicable plans. (The only exception is one statement that the I-5 alignment may conflict with the Tejon development plans.) Essentially what the draft states is that consistency with plans was taken into account during consultation with individual agencies during consultation over locations for stations, etc. The draft does not therefore directly discuss inconsistencies with general or regional plans as required.

**Inadequate Statement of Use of Document**

There is no comprehensive discussion of what the regulatory approval process for the Project will be, who the pertinent responsible and trustee agencies for the project are, what their decisions will be based on, or how the draft will function in that process.

**Conclusion**

Based on the foregoing, the Authority should immediately proceed to confer in good faith with the various agencies that have transportation facilities within their jurisdictions that will be impacted by the Project. As stated above, there is substantial evidence in the record sufficient to support a decision by the Authority to eliminate the I-5 alternative from further consideration in favor of the Antelope Valley route and may proceed to do so upon completion of the current EIR process. In the event that the I-5 alignment is not eliminated from further consideration, the Authority must supplement the EIR to include the missing environmental resource information and environmental analysis necessary to permit a complete evaluation of the Antelope Valley route.

If you have any questions concerning the foregoing, please contact the undersigned.

Very truly yours,

Daniel V. Hyde

Daniel V. Hyde of
LEWIS BRISBOIS BISGAARD & SMITH LLP

DVH:jm
Encl.

cc: Matthew Ditzhazy, Esq. - City Attorney
John Brooks - Senior Administrative Analyst
Frances (Fran) Florez - Vice Chair
Mehdi Morshed - Executive Director
Carrie Pourvahidi - Deputy Director
Christopher Bisgaard, Esq.
Sheldon H. Sloan, Esq.

# TECHNICAL PEER REVIEW FOR THE CITY OF PALMDALE

## Draft Program EIR/S for the Proposed California High-Speed Train System

Prepared for:
**The City of Palmdale**
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Palmdale, CA 93550

Prepared by
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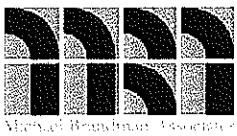

August 26, 2004

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# INTRODUCTION

The California High Speed Rail Authority (Authority) has proposed a high-speed train system for intercity travel in California between the major metropolitan centers of Sacramento and the San Francisco Bay Area in the north, through the Central Valley, to Los Angeles and San Diego in the south. The HST system is projected to carry as many as 68 million passengers annually by the year 2020, and is anticipated to be capable of speeds in excess of 200 miles per hour (mph) on a fully grade-separated track.

Before a project of this nature and magnitude can be formally adopted, both the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) require evaluation of the entire project and its individual components to determine if there are any potentially significant impacts to the physical environment. Further, if a determination is made that the characteristics of the project may have a significant impact on the environment, CEQA requires the preparation of an Environmental Impact Report (EIR), and NEPA requires preparation of an Environmental Impact Statement (EIS), that identify the specific impacts resulting from the proposed project, and ways these impacts may be avoided or mitigated. In conformance with these requirements, the Authority as sponsor and CEQA lead agency, and the Federal Railroad Administration (FRA) as federal lead agency for NEPA, commissioned the preparation of a combined Draft EIR/EIS (DEIR/S) for the HST system program and alternatives. the Authority initiated an environmental review process of a proposed HST Alternative, a No Project/ No Action Alternative, and a Modal Alternative (potential improvements to highways and airports serving the same intercity travel demand as the HST Alternative), culminating in release of a DEIR/S in February 2004.

The DEIR/S contains a statement of purpose and need for a high speed train system, a description of alternatives, an analysis of the potential environmental consequences of the project alternatives by identified categories of effect, identification of various mitigation 'strategies' to reduce or avoid potentially significant effects, and a discussion of unavoidable adverse environmental impacts. The DEIR/S also includes a comparative evaluation of HST alignment options for identified segments of the HST route.

The issue of the proper route and alignment for a high-speed train between Bakersfield and the City of Los Angeles, and more specifically the Bakersfield to Sylmar segment, is an issue of vital concern to the City of Palmdale. The City of Palmdale has been an interested party and active participant in responding to technical papers and preliminary evaluations of HST route alternatives since 1995, with the advent of preliminary corridor evaluations and

feasibility studies. Accordingly, with publication of the DEIR/S in February 2004, the City commissioned Michael Brandman Associates (MBA) to review and analyze the DEIR/S and prepare a set of written comments that would be utilized by the City's professional staff in the preparation of comments responding to the DEIR/S. MBA's approach was twofold. First, the DEIR/S was reviewed for overall consistency with requirements of CEQA and NEPA for the type of environmental document, process and objectives sought by the Authority and FRA, as State and federal lead agencies, respectively. Second, the DEIR/S was reviewed and analyzed for content regarding data, methods and findings to support alignment decisions for the Bakersfield to Sylmar HST segment.

## AUTHORITY TO COMMENT

Environmental review comments on the *Draft Program Environmental Impact Report/Statement for the Proposed California High Speed Train System (February 2004)* are presented in the sections that follow. These comments are submitted to the Lead Agency pursuant to the California Environmental Quality Act, as codified in the Public Resources Code in Section 21000 *et. seq.,* and the State CEQA Guidelines codified in Chapter 3 of Title 14 of the California Code of Regulations (CCR). Comments are also provided in compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. § 4321 et seq.).

## REPORT FORMAT AND PREPARERS

The report format is organized with initial presentation of general comments pertaining to DEIR/S conformance with CEQA and NEPA, followed by specific comments related to each chapter and section of the DEIR/S. In many instances, these specific comments underscore general weaknesses and shortcomings of the document described in the general comments section.

The preparer of this report of comments is Michael Brandman Associates (MBA), in association with Mr. Robert Schaevitz of URS Corporation (Traffic/Circulation, Travel Demand, Costs and Operations), and Acentech, Inc. (Noise/vibration).

## ADDITIONAL DEIR/S TECHNICAL AND LEGAL REVIEW

This technical review of the DEIR/S is supported by additional comments separately provided by counsel to the City of Palmdale addressing compliance with CEQA and NEPA, and by two separate studies commissioned by the City of Palmdale addressing issues in the DEIR/S. These studies, identified below, are summarized and incorporated by reference with the comments that follow:

- *Sprawl or Smart Growth, Analysis of High Speed Rail Alignments and Smart Growth,* prepared for the California High Speed Rail Authority and the City of Palmdale, by Freilich, Leitner & Carlisle (July 26, 2004)
- *A Comparative Analysis of the Tunnel Construction Times, Costs and Risks Associated with the Choice of High Speed Rail Alignment Between Los Angeles and Bakersfield;* prepared for the City of Palmdale by Transmetrics Inc. and GEODATA S.p.A. (January 31, 2003)
- Economic Risk Analysis of Construction Costs, Schedule, Benefits associated with High-Speed Rail Alignments between Los Angeles and Bakersfield, prepared for the City of Palmdale by HLB Decision Economics, Inc. (March 5, 2003)
- Benefits, Costs and Risks Associated with the Choice of Alignment Between Bakersfield and Sylmar, prepared for the City of Palmdale by HLB Decision Economics, Inc (October 26, 2001)
- Comparison and Summary of California High-Speed Rail Project Peer Reviews, prepared for the City of Palmdale by HLB Decision Economics, Inc (April 4, 2001)
- An Analysis of Benefits, Costs, and Risks Associated with the Choice of High-Speed Rail Alignment Between Los Angeles and Bakersfield, prepared for the City of Palmdale by HLB Decision Economics, Inc (March 25, 2000)
- Financial and Economic Performance of the Antelope Valley High Speed Rail Alignment, prepared for the City of Palmdale by Hickling Lewis Brod (December 2, 1998)

## RESULTS OF REVIEW

This review and analysis has identified certain deficiencies in the DEIR/S. The DEIR/S is deficient in the manner in which it was prepared and the manner in which it addresses the potentially significant impacts of the proposed project (or 'proposed action'). The DEIR/S does not fully comply with the requirements of CEQA and the State CEQA Guidelines, and NEPA, its policies and the procedures for implementing NEPA. As evidenced in the comments that follow, the DEIR/S focuses disproportionately upon the overall decision on system alternatives (i.e. HST System vs. Modal Alternative vs. No Project), at the expense of providing sufficient, independently verifiable information to support HST alignment decisions.

The DEIR/S does not construct an accurate and stable project description, provide a clear hierarchy of project objectives, utilize clear and consistent thresholds of impact significance,

accurately and completely analyze potential environmental impacts, develop comprehensive and effective mitigation measures, or provide required information within each of its sections and appendices to support conclusions. These factors make it difficult to make decisions on routing alternatives, one of the goals of the study.

By failing to comply with basic requirements of CEQA and the State CEQA Guidelines in particular, the DEIR/S is a very difficult document to understand and utilize by decision-makers and the public in the manner intended by CEQA. The Lead Agency may argue that many of the deficiencies described in the comments that follow can be explained by the fact that the environmental document has been prepared as a Program-level EIR and Tier 1 EIS, and substantial reliance can therefore be placed upon subsequent project-level environmental reviews to provide additional detail for impact analysis and mitigation. However, the level of detail of the EIR/S analysis of impacts must correlate with the type of project being evaluated and action sought. The EIR/S must be prepared with a sufficient degree of analysis to provide decision-makers with information needed to make an informed decision concerning the environmental consequences of the project.

The summary of the DEIR/S indicates five areas of controversy: Northern Mountain Crossing; Southern Mountain Crossing; Impact on Public Parks, Wildlife Areas and Recreation Resources; Impacts on Coastal Communities; and Station Locations. One of the objectives of the report should have been to resolve or clarify these issues. This review is more focused on resolving the controversy associated with the Southern Mountain Crossing, in particular exploring the differences between the Interstate 5 Alignment (I-5) and the Antelope Valley State 58/Soledad Canyon Alignment option.

Based on the review of the DEIR/S and supporting documentation, there is not sufficient information to support a decision that the I-5 alternative is environmentally superior to the Antelope Valley Alternative. However, substantial evidence indicates that the I-5 Alternative could be removed from further consideration in favor of the Antelope Valley Route. In the event the I-5 alignment *is not* eliminated from further consideration, substantial revisions and additions to the EIR/S are needed before the document can be certified for selection of a specific HST alignment in the Bakersfield to Sylmar segment. In the event the I-5 alignment *is* eliminated from further consideration, minor refinements to the analysis of the Antelope Valley discussion would need to be made, but these would not force re-circulation, prior to a certification action.

# GENERAL COMMENTS

The DEIR/S has been prepared as a Program Environmental Document, addressing both broad system alternatives, as well as alignment alternatives within specified segments of the High Speed Train system. Our review identifies problems associated with analytical methods used, informational gaps and lack of detail provided to support alignment decisions. The focus is on the Bakersfield to Los Angeles Segment, however, comments are made on all portions of the document. These deficiencies are summarized below, with specific examples and references provided in the chapter and section comments to follow.

## 1. THE DEIR/S IS A 'SUMMARY' DOCUMENT LACKING SUFFICIENT DETAIL TO VERIFY CONCLUSIONS

The DEIR/S text is a highly summarized document, typically without specific references or footnotes throughout to indicate where source information is available to the reader to verify data and conclusions. For the most part, the DEIR/S only presents summary analyses, and does not contain information or data sets that would allow for a critical review of the analysis process or verification of the quantitative results.

The figures used in the DEIR/S to present segment and alignment information are not prepared at a sufficiently large scale to verify information described in the text. Where impact conclusions rely upon a clear understanding of the relationship of alternative alignments to adjacent land use, the regional scale figures used (e.g. 1"= 15 miles), mask local land use and resource impacts and preclude a reasonable verification of impact conclusions (i.e. 'high', 'medium' and 'low' impact).

The Appendices should include all of the pertinent regional and statewide studies relied upon in the DEIR/S text documentation. Even so, review of the Regional Studies for the Bakersfield to Los Angeles segment indicates that these studies themselves are highly summarized, frequently lacking adequate mapping of information needed to confirm data and conclusions presented therein. Lack of access to source data and mapping deprives agencies and the public with the ability to give meaningful comments on the adequacy and accuracy of the impact evaluations.

## 2. THE USE OF SHIFTING TERMS OF REFERENCE FOR RAIL SEGMENTS AND GEOGRAPHIC

### Sub-areas Creates Confusion

The DEIR/S frequently and repeatedly uses shifting geographical frames of reference for the alignments (e.g. SR-58/Soledad Canyon v. 'Antelope Valley'; I-5/Wheeler Ridge v. I-5/Tehachapi v. I-5/Grapevine) and segments (e.g. Bakersfield to Los Angeles, Bakersfield to Sylmar) and segments within segments (e.g. Bakersfield to Los Angeles 'north', 'central' and 'south'), which make it difficult to determine whether comparable geographical areas and data sets are being consistently addressed and evaluated. This is further complicated by references to the Southern Mountain Crossing portion of the HST corridor. In some instances references to the 'Antelope Valley' alignment appear to refer to the entire SR-58/Soledad Canyon alignment, whereas in other instances this appears to refer to the non-mountainous portions of the Antelope Valley (i.e., valley floor only). This problem undoubtedly results from the integration of information from previous technical studies and screening evaluations where different alignment sets and study segments have been evaluated.

For clarity, all data sets should be checked to assure a consistent geographical frame of reference, and the entire SR-58/Antelope Valley/Soledad Canyon alignment should be referred to consistently as the Antelope Valley alignment in Final Program EIR/S.

## 3. THE DESCRIPTION OF THE PROJECT AND PROPOSED ACTION ARE NOT CLEARLY SET FORTH IN THE DEIR/S

An EIR must contain a project description (CEQA Section 15124), that complies with various technical requirements, and must a) constitute an accurate description that sets forth project objectives, b) include discussion of reasonably foreseeable activities, and c) be fixed and consistent throughout the document. NEPA has similar requirements for project descriptions.

Although Purpose and Need and Objectives are described in the DEIR/S, there is no section within the DEIR/S that coherently sets forth the Project Description. The HST is variously described as an Alternative (Section 2.6), the 'Proposed Action' (Section 2.6), and the 'Preferred System Alternative' (S.5.4). The proposed HST must be clearly and unambiguously identified in a Project Description section. This section should provide a consolidated, detailed discussion of the physical components, characteristics, or attributes of the proposed HST system facilities. The proposed tunnels, stations, tracks, grade crossings, locomotors, rail cars and other components should be detailed in this section.

The project description must contain a clearly written statement of objectives to help the lead agency develop a reasonable range of alternatives (CEQA Section 15124(b)). Within Section 1, Purpose and Need and Objectives, there are several different sets of objectives and/or criteria identified. The specific objectives being relied upon to evaluate the project and alternatives should be clearly identified.

## 4. THE DEIR/S PROVIDES NO MEANINGFUL DISCUSSION OF HST PHASING OR ANALYSIS OF LOGICAL PHASED SEGMENTS

The HST alternative is presented as a one-size, 'take it-or-leave it' project. What is missing is a meaningful analysis of a larger project (i.e. expanded corridors) or a smaller initial project (i.e. phased or staged HST system), with a minimum feasible network identified. Analysis of the latter in the DEIR/S is particularly important given the current state budget situation and uncertainty regarding future state bonds and major capital outlays.

## 5. THE PROGRAM EIR/S DOES NOT PROVIDE THE LEVEL OF DETAIL TYPICALLY ASSOCIATED WITH A TIER 1 ROUTE SELECTION EVALUATION FOR A TRANSPORTATION PROGRAM.

The DEIR/S appears to have given overwhelming priority to evaluation of the system alternatives (No Project; Modal Alternative; HST Alternative) at the expense of a thorough analysis to support Tier 1 HST alignment decisions, this includes selection of the preferred alignment for the Bakersfield-Sylmar segment.

The document needs to address all environmental impacts associated with each route alignment option in order for decision makers to assess the differences when making a decision on the proposed project. In most cases, the environmental analysis provides only a passing reference or quick overview of the impacts of specific alignments.

The methods described for determining 'low', 'medium' or 'high' impacts for several of the impact categories are based on "known" information. Thus, if an area has been subjected to extensive surveys, there is a greater potential to have a higher impact. Significant portions of the study areas associated with the alignments in the Bakersfield to Sylmar segment have not been surveyed for various resources and might result in a "low" impact rating based on lack of information. A more appropriate evaluation would be to have a number indicating the percent of the route that has been surveyed. Using this number with the number of "known" sites or impacts in an area would be a more defensible method for comparison of alignment impact potentials.

The lack of information and/or meaningful comparative analysis between route alignments makes it difficult for decision makers to choose the environmentally superior alternative. NEPA Guidelines (40 C.F.R. § 15022.22) requires that when information is incomplete or unavailable, the information must be obtained if costs are not exorbitant.

## 6. STUDY AREAS AND AREAS OF POTENTIAL EFFECT VARY IN SHAPE AND SIZE

The variable widths used for comparison of impacts within and across alignment alternatives are not clearly justified or verifiable through review of mapping in the DEIR/S (see Comment #1 above). Specific mapped HST alignments (1"=200' Plan and Profile sheets) were apparently used for analysis of some impact categories (e.g.. Aesthetics and Visual Resources), but not others (where alignments were merely assumed to occur within broadband 'sensitive areas'). Furthermore, the lack of maps indicating the analysis widths and where or if they change make comparison of segments difficult.

## 7. THERE IS A LACK OF CLEAR THRESHOLDS OF SIGNIFICANCE TO SUPPORT IMPACT CONCLUSIONS

The Program EIR/S does not establish clear thresholds of significance or make findings of significance for many environmental impacts. CEQA Guidelines Section 15126 requires that an EIR identify potentially significant environmental impacts associated with proposed projects. CEQA Guidelines Section 15064(b) requires that the lead agency make a determination of whether a project may have a significant effect on the environment based to the extent possible on scientific and factual data. CEQA Guidelines Section 15064.7 encourages lead agencies to "develop and publish thresholds of significance . . ." The DEIR/S relies upon customized 'Methods of Evaluation' that deviate from thresholds found in CEQA Guidelines Appendix G, and do not clearly conform with CEQA requirements.

## 8. THERE IS A FAILURE TO ADEQUATELY INVESTIGATE AVOIDANCE OR MITIGATION POTENTIAL

The descriptions of 'mitigation strategies' presented throughout the document are generally inadequate, often presenting mere descriptions of the next steps in the review process without outlining any specific programmatic mitigation measures, or clear responsibilities for implementing such measures. The DEIR/S should also include additional information on the potential for substantial reduction of environmental impacts through alignment adjustments and refinements. The programmatic level analysis should identify regional impacts and find regional mitigation strategies designed to address those impacts. In this way, a program level analysis is able to take advantage of regional level mitigation that project-level analysis would not be capable of doing.

# COMMENTS ON THE DEIR/S

Comments that follow are provided by chapter and section, corresponding to the sequence in the DEIR/S.

As a general statement, the DEIR/S does not appear to include any clear recitation of 'Effects Found Not to be Significant', either in the document itself or by reference to an Initial Study. The Appendices list does not include the Notice of Preparation/Initial Study. These should be included with the Appendices and readily available to any reviewer of the DEIR/S. Finally, the Appendices list does not include any of the Statewide technical studies or Bakersfield-to-Los Angeles segment technical studies prepared to support the DEIR/S. The mere identification of these as 'Sources Used in Documentation Preparation' (Section 12) diminishes the importance of these documents in support of the findings of the Program EIR/S. These and other technical reports must be included in the Appendices and made readily available for public review as part of the DEIR/S.

The statements provided below are specific to each section as identified. In the case of the Summary, the statements reflect both the section in particular and the document in general.

## TITLE PAGE/ABSTRACT

1. The Joint Authority/FRA Signature page with Abstract lists only the following potential environmental impacts of the alternatives: displacement of commercial and residential properties; community and neighborhood disruption; increased noise and vibration; local traffic impacts associated with stations; impacts on historic properties and archaeological sites; impacts on parks and recreation resources; visual impacts in scenic areas of state; impacts on sensitive biological resources and wetlands; use of energy; and impacts on agricultural lands. This list is partial, as it does not include all of the potential impacts attributable to the alternatives identified in the DEIR/S text.

2. The Abstract should be amended to identify the major segments of the HST System Alternative and list the alignment alternatives within these major segments. The Abstract does not identify the HSR Bakersfield to Los Angeles alignment alternatives and pending decision regarding alignment choices within this segment.

## SUMMARY

1. The last paragraph on page S-1 indicates that the Authority in the Final Program EIR/S ".....*may* select a preferred HST corridor/alignment, general station locations, and recommended mitigation strategies, .....to consider in more detail at the project level". This statement is repeated in Section S.10 Next Steps in the Environmental Process (page S-18). In S.7 HST Alignment and Station Options (page S-16), the document indicates "...the authority *expects to identify* a preferred system of alignment and station options in the Final Program EIR/S." The Summary should clearly indicate if it is the Authority's intent to utilize the information in the Program EIR/S to select preferred HST corridors/alignments for further study at the project-level.

2. Section S.2 Studies Leading to the Program EIR/EIS mentions release of the Notice of Preparation (NOP) and Notice of Intent (NOI), a scoping process, a screening process including key criteria, and the alternatives that emerged from this process. However, this section does not specifically identify any of the studies or reports relied upon in this process. Key studies should be identified here and/or footnoted with appropriate references (including availability for public inspection.) Neither the NOP nor NOI is included in the DEIR/S Appendix. In its March 24, 2004 letter to the High Speed Rail Authority Chairman, Lewis Brisbois Bisgaard & Smith LLP, counsel to the City of Palmdale in this matter, identified the NOP and NOI as key informational documents missing from the DEIR/S and published record. The NOP and NOI were subsequently made available for the City's inspection at the Authority's offices, and copies were later provided. Both the NOP and NOI should be included as part of the EIR/S documentation and made readily available for public review as part of the appendices.

3. Within Section S.2, is the relationship, if any, of the listed key criteria in this to the enumeration of 'Project Objectives' required by CEQA (Guidelines 15124(b)) is not described, nor is it stated where specifically, can these Project Objectives be found.

4. The purposes described in Section S.3, Purpose and Need for a High Speed Train System, support several of the reasons documented in elsewhere in the DEIR/S and in prior City of Palmdale testimony to the Authority, as to why the Antelope Valley HST alignment is the best choice for California... Superior intermodal integration, economic integration, economic viability, and reliability.

5. The discussion under S.4.1 No Project Alternative references the relationship of this alternative to 'purpose and need and objectives regarding congestion, safety, reliability, and travel times'. Are these the Project Objectives required to be identified by CEQA? There is a need to consolidate these within a single section of the EIR/S, to allow a complete and consistent frame of reference for measuring the ability of system and alignment alternatives to achieve basic project objectives.

6. S.4.3 High Speed Train Alternative (page S-4) - Indicates that a higher HST ridership forecast was used in describing HST Alternative and impacts ('representative demand' ridership), but that where high-end ridership forecasts result in potential benefits, additional analysis is included to address the impacts associated with the low-end forecasts. The rationale for this dichotomy is not clearly explained. For example, where high-end ridership may result in potential adverse impacts (rather than benefits), are the low-end ridership forecasts also presented?

7. Section S.4.4 Areas of Controversy, indicates that in choosing HST alignment and station options, the Authority will take into account potential impacts on natural resources, cost, effects on travel time and ridership, and public and agency input. The factors the Authority should take into account should include the full range of environmental impacts, as well as the aforementioned Project Objectives, required by CEQA.

8. Regarding the Northern Mountain Crossing (page S-5), the service/operational, ridership and environmental impact factors cited appear to provide sufficient justification for the decision to remove the Altamont Pass corridor option from further consideration.

9. The discussion of Southern Mountain Crossing options summarizes several of the advantages of the Antelope Valley (AV) alignment that are apparent from the analysis in the DEIR/S text. As discussed in our comments that follow, however, the reference to 10-12 minutes of added travel time with the AV alignment (over the I-5 alignment) is not supported by analysis or explanation. Past travel time estimates provided by the Authority in writing and in public meetings have cited a 6-9 minute difference. This The Antelope Valley SR 58/Soledad Canyon Route (hereafter referred to as the 'Antelope Valley' route for ease of reference) would result in increased intercity ridership (Bakersfield to Palmdale; Palmdale to Los Angeles), and would have fewer impacts in some critical issue areas such as impacts to parklands

and other sensitive issues. Indeed, Authority staff has stated in past public meetings that the ridership difference between the two alignments is "too close to call".

With projected growth in Antelope Valley, the AV will become a first-order intercity destination in and of itself. This section presents an abbreviated listing of environmental benefits of the AV alignment versus the I-5 Grapevine option; a more complete listing is provided in Section 6.4. Based on the prior project environmental record (including the 12/14/01 Final Statewide Scoping Report), it is unclear why an alignment decision in the Southern Mountain Crossing area should be considered an 'Area of Controversy' at all.

10. In S.5.4 Preferred System Alternative, it is indicated that the Authority and the FRA have concluded the HST Alternative is the preferred system alternative, but that "the Authority and FRA continue to consider HST alignment and station options and have not identified a preference among those presented in the Draft Program EIR/EIS." With the environmental information provided for the Bakersfield to Los Angeles segment summarized in Chapters 3 and 6, supplemented by testimony at the Authority's Los Angeles area public hearings on the DEIR/S, it would appear there is sufficient data to support elimination of the I-5 alignment and support the identification of the Antelope Valley alignment and Palmdale Station as the Authority's preferred choices in this segment of the HST corridor.

11. Table S.6-1 Summary of Key Impacts and Benefits for System Alternatives is too brief in its presentation of key system-level environmental issues to provide a meaningful comparison of system-level effects. This summary table should be substantially expanded for each issue area, particularly with regard to growth potential and cumulative effects. Pursuant to CEQA Guidelines 15168 (b), one of the principal advantages of a program EIR is assurance of an adequate consideration of cumulative impacts that may otherwise be slighted on a case-by-case basis. The Table S.6-1 summary of cumulative effects for the system alternatives mentions only two or three impact categories for each of the system alternatives. For the HST alternative, it provides only a brief statement of visual effects, construction-related short-term visual impacts, and farmland impacts. The Program EIR must provide a thorough comparative analysis of cumulative effects.

12. The comment in S.6 System-Wide Environmental Impact Comparison indicating that many of the potential impacts for the system alternatives will fall *within the quantities presented* in Table S.6-1 is an important observation that masks a larger issue with the gross level of analysis and detail in the Program EIR/S. The methods used in the

Program EIR/S tend to define impact 'envelopes' or worst case indices of potential impacts of both the system alternatives and HST alignments. As noted in our comments that follow below with respect to the Bakersfield to Sylmar segment and several key impact sections, (e.g. 3.12 Cultural Resources, 3.14 Hydrology and Water Quality, 3.15 Biological Resources,) the actual impacts of alignment alternatives may be significantly less than what was analyzed in the DEIR/S, thus making it difficult to make accurate alignment comparisons.

13. S.8 Least Environmentally Damaging Preferred Alternative (LEDPA). This section Indicates that the EPA and U.S. Army Corps of Engineers (USACE) have participated in the preparation of the DEIR/S and will be consulted in identification of preferred corridor and route that will be discussed in Final Program EIR/S. Where is this participation evident in the DEIR/S and what comments/concerns have been expressed by these agencies? The DEIR/S needs to identify those factors that determine designation of the LEDPA, and what the significance of this designation is for route selection and implementation.

14. S.9 Public and Agency Involvement. This highly abbreviated statement provides no real measure of the impact that such public involvement has had on the EIR/S process or content. (Section 8 of the DEIR/S merely reflects a recitation of the number of meetings and locations where the project was discussed, but provides little indication of the issues raised, and resolution of such issues through the DEIR/S.) The DEIR/S Appendices should include the NOP/NOI and a complete summary of the proceedings of the scoping meetings. The DEIR/S should indicate where additional information, including agency correspondence is available for public review.

15. In S.6 System-Wide Environmental Impact Comparison (page S-9), the observation is made that "For many of the environmental areas discussed in Table S.6-1, the quantities presented represent areas within which potential impacts might occur." Although the meaning of this statement is not entirely clear, it would appear to suggest that the quantities identified represent 'worst-case' impact scenarios, within which actual impact levels as determined by specific system plans will fall. If this is an accurate interpretation, the same observation should also be made for many, if not all, of the quantities attributed to the HST alignment alternatives throughout the document. The fact that the actual impacts could be significantly less than what was analyzed makes it very difficult to make accurate comparisons, since it is difficult to

determine if the differences between a "worst case" and a "best case" are equivalent. (page S-9)

# CHAPTER 1: PURPOSE AND NEED AND OBJECTIVES

## 1. THE OBJECTIVES AND PURPOSES NEED TO ADDRESS HIGHER-ORDER STATEWIDE MOBILITY GOALS.

This section presents various *purposes of a high-speed train system* (1.2.1), but is not entirely clear whether these are intended to be the specific project objectives required to be identified by CEQA Guidelines 15124(b) in the EIR. In this regard, the purposes listed on pages 1-3 and 1-4 are focused on the HST system alternative only. If the DEIR/S is intended to differentiate between the broader system alternatives, the objectives (e.g. purposes) should address higher-order statewide mobility and environmental goals that are not defined specifically for an HST system alternative.

## 2. THE RELATIONSHIP BETWEEN CRITERIA AND SCREENING EVALUATIONS IS UNCLEAR.

Also unclear is the relationship between various standardized criteria and objectives identified in association with prior screening evaluations (see Chapter 2; page 2-8, 2-9) and the broader project objectives and system alternatives. The standardized criteria are identified (on page 2-8) as Construction; Environment; Land Use Compatibility; Right-of-Way; Connectivity/Accessibility; and Ridership/Revenue criteria. The HST screening evaluations objectives were identified (on page 2-9) to include the following:

- Maximize ridership and revenue potential
- Maximize connectivity and accessibility
- Maximize compatibility with existing and planned developments
- Maximize avoidance of areas with geological and soils constraints
- Maximize avoidance of areas with potential hazardous materials
- Minimize operating and capital costs
- Minimize impacts on natural resources
- Minimize impacts on social and economic resources
- Minimize impacts of cultural resources

The DEIR/S thus lacks a clear definition and hierarchy of project objectives to support findings for selection of a travel mode system alternative, as well as identification of preferred alignment alternatives should the HST system be selected for implementation. Perhaps not surprisingly, review of the discussion of Purpose and Need and Objectives, as

well as discussion of Alternatives, reflects an apparent bias toward the High Speed Train System Alternative.

### 3. THE TRAVEL YEAR HORIZON SHOULD BE REDEFINED TO YEAR 2025.

The DEIR/S utilizes year 2020 as the horizon year for virtually all projections and comparisons of system impacts at buildout. Most local and regional agencies are already utilizing year 2025 for long-range planning, General Plans and regional transportation planning purposes, while some are looking as far as 2030. Given the long lead times for potential HST system implementation on a statewide basis, and the uncertainties regarding availability and timing of funding to support full HST system implementation, the horizon year and projections in the DEIR/S should be systematically updated to reflect year 2025 buildout and cumulative conditions.

### 4. THE NEED FOR IMPROVED INTERCITY DAILY COMMUTING IS NOT ADDRESSED IN THIS SECTION.

There is no discussion of the potential benefits of an HST system in meeting a portion of future intercity commuting demand. There should be some discussion on the need for high speed connections from San Francisco to San Jose; San Francisco to Sacramento; San Jose to Sacramento; Bakersfield to LA; Lancaster/Palmdale to LA; and Lancaster/Palmdale to Bakersfield. This function is consistent with and required by the goals and objectives for high speed rail set forth in the Authority's enabling legislation.

### 5. THE SECTION MISREPRESENTS VARIOUS FACTORS RELATED TO AVIATION

The section attributes much of the purpose of the HST to fulfilling the unmet needs for inter-city travel created by a lack of aviation facilities, and the increasingly longer point-to-point travel times. The section asserts that most long distance inter-city travelers currently rely on aviation, that aviation facilities are strained now and that new expensive facilities are necessary to keep up with the demand. Thus, an HST would serve a need, particularly among business travelers who are more apt to pay higher fares. In making this argument, the document presents some questionable data and in the process omits some arguments favorable to the HST.

### 6. THE DEIR/S UNDERREPRESENTS THE CAPACITY OF SOUTHERN CALIFORNIA AIRPORTS.

The DEIR/S fails to mention the availability of currently underutilized airports and uses outdated and erroneous data to represent the existing and proposed capacity of existing

airports. Text on Page 2-12 and **in** Table 2.4-2 Total Programmed, Funded, and Operational Airport Improvements do not list several existing airports and do not mention airport capacity enhancement projects currently underway. The document narrowly defines the criteria for considering airports by including only those that currently host scheduled air service (page 2-21 and Appendix 2-B Detailed Description of No Project Alternative), and the document includes only those airport projects that are contained in an existing capital improvement program. By doing so, the document vastly underestimates the prospects for additional airport capacity and only recognizes improvements located at Ontario Airport. For example, the analysis in the document (page 1-6) indicates that LAX is limited to 78 Million Air Passengers (MAP). . However, at LAX, a draft Master Plan calls for proposed runway improvements to serve nearly 90 MAP. Considering the current level of 55 MAP, that would provide for an 82% increase.

The document also states that no improvements are slated for John Wayne Airport (JWA) (page 2-14, Table 2.4-3 Programmed, Funded and Operational Improvements) and that service will not increase above a level of 7.5 MAP. However, JWA served 8.5 MAP in 2003 and is slated to increase to 10.8 MAP and to add 6 more gates owing to a recently FAA approved change to the court ordered Settlement Agreement. JWA is also sized to accommodate medium air carrier aircraft, not only small aircraft as indicated in the document (Appendix 2-G Table 2-G-1 Airport Capacity to Accommodate Larger Aircraft.) The terminal, gates and runway at JWA are designed to accommodate B767 and A300 aircraft, which could add even more passenger capacity to JWA beyond the 10.8 MAP after the current Settlement Agreement extension expires in 2011.

Ontario Airport is considered in the document to add terminal space and gates. (page 2-14, Table 2.4-3 Programmed, Funded and Operational Improvements) However the analysis misses the fact that Ontario Airport has the ability to increase its service from the current 6.5 MAP to 14 MAP under existing plans, and the draft Aviation Element of the 2004 Regional Transportation Plan (RTP) calls for it to be expanded to 30 MAP.

Other airports not considered in the DEIR/S, despite not doing so now, definitely have the potential to provide commercial air service. The Aviation Element of the Regional Transportation Plan (RTP) entitled *"DESTINATION 2030"* released November 3, 2003 produced by Southern California Association of Governments (SCAG) echoes this sentiment. The document proposes a new decentralized aviation plan called the "Preferred Aviation Plan" that would accommodate a total of 170 MAP. Rather than relying on expanding existing urban airports, future demand will be served using available capacity at existing airports. Ontario Airport, March Air Reserve Base, San Bernardino International

Airport, the Southern California Logistics Airports and, most importantly, Palmdale Airport have the backing and support of their owners and communities to use their vast acreages of runways and facilities to serve passengers. The draft RTP calls for Ontario to serve 30 MAP, for Palmdale to serve 12.8 MAP, for March to serve 8 MAP, for San Bernardino to serve 8.7 MAP and for SCL to serve 4 MAP. Reconsideration of all these facts in the DEIR/S would lead to a conclusion that there are ample physical facilities in southern California to accommodate air travel far into the future.

## 7. THE DOCUMENT OVER REPRESENTS AIR TRAVEL DEMAND FOR THE YEAR 2020.

The document uses forecast data indicating large increases in air passenger demand by the year 2020. On page S-7, the document states that the 173 million air passengers within the state during 1999 will double to 346 million by 2020. This data overstates the rate of increase by not adequately reflecting the decreases in air travel experienced in southern California during the past few years. The current draft of the SCAG Aviation Element states that demand will not double until the year 2030.

Air travel at LAX is down 20% from its peak and only lately demonstrates some little inclination to assume its former rate of increases. From its peak of 67.3 Million Air Passengers (MAP) in 2000, LAX travel declined to 61.6 MAP in 2001, 56.2 MAP in 2002 and 54.97 MAP in 2003. The rebound after the events of 9/11 is not occurring as stated in the document on page 1-6. The forecast of 98 MAP referenced in the LAX DEIR/S will not be realized until much past 2020. The most recent FAA Terminal Area Forecasts for LAX indicate that service levels at LAX will not reach the year 2000 levels (64 MAP) until the year 2008 and that service levels in 2015 will be approximately 81.6 MAP.

While it is true that other airports have seen increases, the overall trend is still down. Long Beach has experienced an increase of over 1.2 MAP owing solely to the introduction of JetBlue. John Wayne has rebounded since 9/11 and has experienced increases of 1 to 2 MAP. In, 2003, Burbank Airport re-achieved its 2000 peak of 4.7 MAP. However, Ontario is down to 6.5 MAP in 2003 from its peak of 6.7 MAP in 2000. From a peak of 89 MAP in 2000, air travel throughout the region declined to 76.2 MAP in 2003. It will be some time before previous levels are achieved and new levels attained.

While air travel demand in Southern California will eventually increase to levels equaling or exceeding those stated in the DEIR/S (the RTP forecasts 170 MAP by 2030), it is clear that the levels of demand forecast in the DEIR/S will not occur until much later than 2020, thus calling into question this "purpose" of the HST project.

## 8. THE DOCUMENT DOES NOT DISCUSS THE POTENTIAL BENEFITS FROM THE PROPOSED HST TO THE SOUTHERN CALIFORNIA AIRPORT SYSTEM.

The densely populated San Fernando Valley contributes heavily to regional air transport demand, and the Burbank Airport is clearly overburdened. Data contained in the LAX Master Plan documents indicate that air travel demand for domestic Origin and Destination travel in the San Fernando Valley and the City of Burbank achieve the highest levels of 20,000 to over 80,000 passengers per year per square mile. (These are higher than the downtown area of Los Angeles.) Travel time and expense from the Valley to LAX is very high requiring use of congested freeways passing through the heart of the metropolitan west side of Los Angeles.

The proposed HST has the potential to fulfill a long sought objective to provide a high speed transit link to the vastly underused Palmdale Airport. HST stations are proposed to be located adjacent to the Palmdale Airport and directly adjacent to Burbank Airport. (The Union Station terminus is important but less so than Burbank is.) The concept of a high speed transit link to Palmdale Airport has been openly proposed by LA City Council members and is implicitly included in the Regional Transportation Plan and the LAX Master Plan now under development. Los Angeles World Airports (the department of the City of Los Angeles that owns and operates both LAX and Palmdale) conducted a study of the passenger demand for the Palmdale Airport with the inclusion of improvements to Highway 14. The current Master Plan concept envisioned by Mayor Hahn includes limited expansion of LAX and increased expansion of regional airports.

An additional benefit of using the Palmdale Airport is its ability to serve what is known as the New Large Aircraft (NLA), the Airbus 380, which will carry 500 to 600 passengers. LAX will require expensive refitting to accommodate that aircraft while Palmdale would not. A high speed transit link to Palmdale would enhance the ability of the region to accommodate this aircraft.

## 9. THE PURPOSE AND NEED DO NOT CONSIDER THE IMPACT OF ELECTRONIC COMMERCE OR "TELEWORKING".

The DEIR/S and the Business Plan speak in several places of the intercity business travelers who mostly fly, are willing to pay higher fares and who would be potential HST riders. However, there is an increasing body of evidence, often cited in aviation planning, indicating that the availability of increasingly sophisticated and reliable electronic communications are supplanting the need for business travel. The Southern California Association of Governments (SCAG) indicated in their 2003 State of the Region Report, that some 3.2 % of the work force are "teleworking" and that these workers tend to be highly

educated and paid—exactly the same as business air travelers. The document must consider the implications of this trend on the potential ridership of the HST.

# CHAPTER 2: ALTERNATIVES

## 1. THE CAPABILITY OF THE HST TO CARRY FREIGHT IS NOT ADDRESSED.

Not addressed in the DEIR/S, (often overnight) transfer of packages and mail between California cities is a growing need that could be served by HSR. Advances in high speed sorting and containerization of cargo are equally applicable to rail as to aviation. Inter-city truck traffic is an increasing factor in the congestion levels of the state's highways. While the DEIR/S acknowledges the potential for HST freight service in Section 2.6.3, it indicates such service has been given no consideration in the analysis. The benefits of extension of HST freight service to a growing Antelope Valley, with connections to the Palmdale Airport, should be explored. The Program EIR level is appropriate for some analysis of this HST system opportunity. The capability of HST to carry freight should be more fully evaluated in the DEIR/S.

## 2. THE CONCEPTUAL SERVICE PLAN SHOULD INDENTIFY INTERCITY SERVICE BETWEEN THE ANTELOPE VALLEY AND OTHER MAJOR DESTINATIONS

For purposes of alignment comparison, Section 2.6.2 Conceptual Service Plan (page 2-25), should include service to the Antelope Valley with the five types of intercity trains identified. This section makes no mention of the benefits associated with a station in Palmdale connecting with the Central Valley or Los Angeles. This connectivity would result in enhanced HST ridership, reduced impacts to air quality in the air basins, and reduced traffic impacts on SR-14 and I-5 within the Bakersfield to Sylmar segment (page 2-25).

## 3. THERE IS A NEED TO CLARIFY THE RELATIVE LENGTH OF TUNNELS

In the discussion of 'Bakersfield to Los Angeles Options Carried Forward' (page 2-73), the amount of tunneling that would be needed for the I-5 (3.5% maximum grade) route is identified as 18 miles with a maximum tunnel length of 6 miles. For the SR 58/Soledad Canyon alignment (3.5% maximum grade), it indicates the need for tunneling would be *reduced to 20.7 miles* of total tunneling. Yet in the Final Cost Report, Appendix F, HST Segment Cost, figures on pages 65-66 of 73 indicate lengths of 37 km (22.9 miles) for the I-5 alignment and 21.6 km (13.4 miles) for the AV alignment. Clarification is needed throughout the DEIR/S document as to how much tunneling would take place on these routes. This is further confused by the Tunneling Study conducted by Transmetrics and Geodata that indicates that tunneling lengths would be roughly equivalent on the two alignments.